

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

In Re:

TCR III, INC. (f/k/a America House One, Inc.), EIN: 54-1910021	Case No. 15-14162-BFK
TCR IV, INC. (f/k/a America House Two, Inc.), EIN: 54-1892641	Case No. 15-14163-BFK
TCR V, INC. (f/k/a America House Three, Inc.), EIN: 54-1914323	Case No. 15-14165-BFK
TCR VI, INC., and EIN: 76-0801398	Case No. 15-14168-BFK
AMERICA HOUSE ASSISTED LIVING OF FRONT ROYAL, L.L.C., EIN: 54-2023050	Case No. 15-14169-BFK
Debtors.	Chapter 11

**DEBTOR'S MOTION TO PAY
CRITICAL VENDORS**

COME NOW TCR III, Inc. (f/k/a America House One, Inc.); TCR IV, Inc. (f/k/a America House Two, Inc.); TCR V, Inc. (f/k/a America House Three, Inc.); TCR VI, Inc.; and America House Assisted Living of Front Royal, L.L.C. (collectively the "Debtors"), by counsel, and file this motion pursuant to Bankruptcy Code §§ 105(a) and 363(c), and Federal Rule of Bankruptcy Procedure 6003 for entry of an order authorizing Debtor to pay certain prepetition claims held by critical vendors, and in support thereof state as follows:

Jurisdiction

1. On November 24, 2015 (the "Petition Date"), the Debtors filed voluntary petitions seeking relief pursuant to Chapter 11 of the United States Bankruptcy Code. The

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William A. Gray, VSB No. 46911
John C. Smith, VSB No. 44556
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P.O. Box 1998
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Telephone: 804.648.1636
Proposed Counsel for the Debtors

Debtors continue to manage and operate their respective business as a debtor-in-possession in accordance with 11 U.S.C. §§ 1107 and 1108. No creditor's committee, trustee, or examiner has been appointed herein.

2. The Court has jurisdiction over this motion pursuant to 28 U.S.C. § 157(b)(2).
3. Venue in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

Summary

4. Debtor TCR III, Inc. ("**TCR III**"), is a Virginia corporation licensed by the Virginia Department of Social Services to operate an assisted living facility for up to 27 residents at 10140 Hastings Drive, Manassas, Virginia 20110 (the "**Manassas Facility**"). TCR III owns the Manassas Facility.

5. Debtor TCR IV, Inc. ("**TCR IV**") is a Virginia corporation licensed by the Virginia Department of Social Services to operate an assisted living facility for up to 31 residents at 680 University Lane, Orange, Virginia 22960 (the "**Orange Facility**"). TCR IV owns the Orange Facility.

6. Debtor TCR V, Inc. ("**TCR V**") is a Virginia corporation licensed by the Virginia Department of Social Services to operate an assisted living facility for up to 46 residents at 110 Spanish Oak Road, Stephens City, Virginia 22665 (the "**Stephens City Facility**"). TCR V owns the Stephens Facility.

7. Debtor American House Assisted Living of Front Royal, L.L.C. ("**American House Front Royal**") is a Virginia limited liability company licensed by the Virginia Department of Social Services to operate an assisted living facility for up to 27 residents at 106 Westminster Drive, Front Royal, Virginia 22630 (the "**Front Royal Facility**") (together with the

Manassas Facility, the Orange Facility and the Stephens City Facility, the "**Facilities**"). America House Front Royal owns the Front Royal Facility.

8. Debtor TCR VI, Inc. ("**TCR VI**") is a Virginia corporation with a mailing address of 400A Kendrick Lane, Front Royal, Virginia 22630. TCR VI is wholly owned by TCR III. TCR VI was formed to manage one or more Facilities, but never took over management of any of the Facilities.

9. For each of the Debtors except TCR VI, the residents in the Facilities are elderly people who rely on the Debtor for their every need.

10. Upon information and belief, attached as Exhibit A is a summary of debtors unsecured non-priority claims as of the Petition Date which total as follows:

TCR III	\$ 6,653.48
TCR IV	6,579.92
TCR V	7,607.54
TCR VI	.00
Front Royal	<u>7,535.28</u>
Grand Total	<u>\$28,376.22</u>

11. Of the Grand Total, Debtors owe \$12,341.61 to FPC Food Service for food used by Debtor to feed the residents. FPC will not make further deliveries unless it is paid for prepetition deliveries. Debtor can shop for food at grocery stores, but believes the food would cost more and there is the issue of transporting food sufficient to feed all of the residents three times a day. Ultimately Debtor believes it would cost more to lose FPC as a vendor than it would to pay the prepetition cost.

12. Of the Grand Total, Debtors owe \$9,054.65 to Food Lion for food used by Debtors to feed the residents. Debtor does not want to lose Food Lion as a vendor.

13. Of the Grand Total, Debtors owe \$5,635.49 for prepetition utility services (*i.e.*, \$1,555.12 to Dominion Virginia Power, \$3,145.46 to Town of Front Royal, and \$934.91 to

Town of Orange). Debtors cannot allow utility services to be cut-off for its residents. Debtor believes that it would cost more to pay adequate assurance deposits to the utility companies than to pay the prepetition utility bills.

14. Of the Grand Total, the remaining amount (which is for maintenance) totals \$1,344.47. Debtors believe this is *de minimus*,

Relief Requested

15. By the Motion, Debtor seeks entry of an order authorizing Debtor to pay its unsecured non-priority claims as of the Petition Date.

16. Upon information and belief, the Office of the US Trustee does not oppose this relief.

Basis for Relief

17. Bankruptcy Code § 105(a) empowers a Court to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). A bankruptcy court's use of section 105(a) to "authorize the payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept." *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989). "Under Section 105, a court can permit pre-plan payment of prepetition obligations when essential to the continued operation of the debtor." *In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (citing *Ionosphere Clubs*, 98 B.R. at 177).

18. Federal Rule of Bankruptcy Procedure 6003 provides in the relevant part:

Except to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, issue an order granting . . .

. . .

(b) a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition, . . . ;

FED. R. BANKR. P. 6003.

19. To avoid immediate and irreparable harm, critical vendor payments are allowed where vendors would indeed cease deliveries if not paid and the creditors are better off in a reorganization than a liquidation.

WHEREFORE, Debtor respectfully requests that the Court enter an Order, substantially in the form attached hereto as Exhibit B, granting the relief requested in the Motion, and for such other and further relief as the Court deems just and proper.

Date: December 29, 2015

TCR III, INC., TCR IV, INC.,
TCR V, INC., TCR VI, INC., and
AMERICA HOUSE ASSISTED LIVING OF
FRONT ROYAL, L.L.C.,
by Proposed Counsel

/s/ Roy M. Terry, Jr.

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W3224885

Summary of Unsecured Non-priority Claims
As of 11/224/2015 (the Petition Date)

		TCR III No. 15-14162	TCR IV No. 15-14163	TCR V No. 15-14165	TCR VI No. 15-14168	Front Royal No. 15-14169	Grand Total
Blossman Gas	Utilities					29.48	29.48
Dominion Virginia Power	Utilities		1,555.12				1,555.12 *
Fire & Life Safety America	Maintenance			518.75			518.75
Food Lion	Food	1,279.74	1,773.43	1,520.09		2,166.22	6,739.48
FPC Food Service	Food	3,045.64	1,939.79	2,583.40		5,578.01	13,146.84 *
Gilliam's Bldg Supply	Maintenance	59.58					59.58
Mast LTC	Nursing Supplies	67.98	89.56	136.69		108.13	402.36
Miller Hadware	Maintenance			70.99		16.84	87.83
Sherwin-Williams	Maintenance	43.16					43.16
Total Pest Services	Pest Control	65.00	65.00	65.00		65.00	260.00
Town of Front Royal	Utilities					3,145.46	3,145.46 *
		4,561.10	5,422.90	4,894.92	-	11,109.14	25,988.06

* Denotes pre-petition debts which debtor has paid post-petition to avoid vendor cutting off service.

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**ORDER AUTHORIZING PAYMENT OF
CRITICAL VENDOR PREPETITION CLAIMS**

This matter comes before the Court upon the Debtor's motion to pay prepetition claims held by certain critical vendors, and due notice having been provided under the circumstances, and sufficient cause appearing therefore,

IT IS ORDERED that *Debtor's Motion to Pay Critical Vendors* is GRANTED; and

IT IS ORDERED that Debtor is authorized, but not directed, to pay its unsecured non-priority claims as of the Petition Date.

DATE:

UNITED STATES BANKRUPTCY JUDGE

ENTERED ON DOCKET:

Roy M. Terry, Jr., VSB No. 17764
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I ask for this:

/s/ Roy M. Terry, Jr.

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Telephone: 804.648.1636
Proposed Counsel for the Debtors

LOCAL RULE 9022-1(C) CERTIFICATION

I hereby certify that the foregoing proposed order has been endorsed by all necessary parties.

/s/ Roy M. Terry, Jr.

Copies to:

Charles V. Rice
400A Kendrick Lane
Front Royal, VA 22630
Proposed Debtor Designee

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Proposed Counsel for Debtors

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TS Cambridge Grantor Trust
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Secured Parties

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